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February 18, 2004

Ms. Vicki Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

**Re: STB Finance Docket No. 34284, Southwest Gulf Railroad Company –
Construction and Operation Exemption – Medina County, TX**

Dear Ms. Rutson:

On behalf of the petitioner Southwest Gulf Railroad Company (“SGR”), this will respond to the January 15, 2004 letter written to you by Mr. David Barton, the attorney for the Medina County Environmental Action Association, Inc. (“MCEAA”), and the January 12, 2004 letter of Dr. Lynn Kitchen, an environmental consultant to that group. In these letters, these MCEAA representatives urge your office to prepare an Environmental Impact Statement (“EIS”) with respect to SGR’s proposal to construct an approximately 7 mile common carrier rail line in Medina County, TX. That rail line, as you know, would be designed to link a limestone quarry to be operated by a subsidiary of SGR’s parent, Vulcan Materials Company (“Vulcan”), with the Union Pacific Railroad line, facilitating the transportation of aggregate essential for construction projects in Texas and other states. The line would also serve any other businesses that might choose to locate on or near it.

As you know, the request of the MCEAA’s representatives that an EIS be prepared for this project comes weeks after SEA had obviously already decided to prepare an EIS for this project. SEA’s decision was reflected in its Notice of Intent to Prepare an EIS and proposed scoping notice, which was published in the Federal Register on January 28, 2004. That scoping Notice recites that the decision to prepare an EIS was made due the level of controversy that has been generated by this project. The Notice does not recite any significant adverse environmental impacts expected from the construction and operation of SGR line.

While MCEAA, a small but vocal group, has itself generated most of the “controversy” over SGR’s project, SGR nonetheless fully supports SEA’s decision to prepare an EIS. SGR is confident the EIS will conclude that the SGR line will not result in any significant adverse

environmental impacts or impacts that cannot be adequately mitigated. Further, given that SEA and its contractor have already undertaken a significant amount of work on this matter over the last several months, and that MCEAA and other interested parties have already exhibited substantial familiarity with the SGR project through their letters and other submissions, SGR is confident that the relevant areas of interest already have been identified and therefore that EIS process can move forward expeditiously.

In that regard, the draft scoping notice makes clear that SEA will address in the EIS each of the issues raised by MCEAA in the letters of its representatives. Thus, SGR is not going to undertake here to respond further to those issues, virtually all of which have previously been raised by MCEAA and addressed by SGR. Instead, we will limit our response to a few points, as to which further response is warranted to address factual errors in the assertions of MCEAA's representatives and to one point not previously raised.

Mr. Barton states in his letter that SGR was mistaken in having told your office that the rail fueling/maintenance facility will not be located over the Edwards Aquifer. We wish to reiterate that there has been no change in SGR's plans. SGR never planned to locate that facility over the Aquifer, and still has no plans to do so. SGR has consulted with the Edwards Aquifer Authority (EAA) with respect to its plans, and the Authority has expressed no concerns about the location of this facility. Further, SGR is prepared to accept, as a condition to the approval of its project, a requirement that it consult with the EAA prior to commencing construction of its facility.

Mr. Barton raises questions about the safety of the proposed at-grade crossing of FM 2676 by the rail line, and repeats an old claim that Vulcan representatives had committed to a grade separated crossing some years ago. That claim is not true, and in fact was recently disavowed by the official of the Texas Department of Transportation who was its alleged source. Putting that issue aside, SGR is fully committed to a safe crossing, which is obviously in the interests of everybody in the area. TexDOT has recently written to your contractor on this matter expressing its intention to review the safety of the proposed at-grade crossing once the EIS has been completed. SGR commits to work with TexDOT in that regard, and has already fully committed to funding the appropriate gates, lights and other protections for a safe at-grade crossing.

Mr. Barton states that SGR has failed to explain why rail routes other than its preferred route and the three alternatives under review were excluded from consideration. Mr. Barton's decision to raise this point is curious, as the group he represents has expressed unalterable opposition to any new rail line in Medina County, and thus has demonstrated little interest in alternative routings. The one alternative that has been mentioned by others is a route that would follow the route used by a railroad built in the early part of the 20th century in connection with the construction of the Medina Lake Dam. SGR has previously explained to SEA why this route would not be a viable alternative, noting that (among other problems) this route does not connect the proposed quarry with the point on the UP line that lies north of U.S. 90 (thus requiring an expensive and unnecessary grade crossing of that busy highway), would be much longer and

intrude on many more property owners, and would require that land and a new easement be acquired, as there is no longer any legal easement for that old route.

Turning to the routes that were assessed by SGR, at the outset of its rail planning process, SGR's engineering consultants identified a total of 15 potential routes between the quarry and a point of interchange with the UP rail line. These 15 routes consisted of eight potential routes, as well as seven additional routes that reflected minor variations from some of these eight routes. Each of the 15 options was assessed based on a variety of criteria, including operational considerations (SGR sought to reduce grades and curves, thus facilitating efficient rail operations), cut and fill requirements (SGR sought to minimize or eliminate the need for cuts and fills, thus reducing unnecessary costs), impacts on wetlands (SGR sought a route that would reduce or eliminate such impacts), number of impacted property owners (SGR sought to minimize the number of impacted landowners), location of property boundaries (SGR's goal was to locate the line as close as possible to property boundaries so as to minimize impacts on landowners) and avoidance of driveways.

After filtering the 15 routes through these criteria, SGR determined that four routes were more advantageous from the perspective of these criteria. These consisted of the SGR preferred route and the three alternatives. The preferred route is the most advantageous of the routes assessed in terms of the minimization of impacts. SGR would be pleased to respond to any specific requests for information on the route selection process additional to that already provided to the extent that such additional information may be necessary for purposes of preparing the EIS.

Finally, we note that Dr. Kitchen states in his letter that SGR has ignored or overlooked issues related to threatened or endangered species, flooding and cultural resources. SGR is confident that the EIS will address each of these issues. Dr. Kitchen will of course have a full opportunity to comment on the Draft EIS to be issued by SEA.

While we take issue with most of his comments, given that these matters will be addressed in the EIS, we will respond to only one significant factual error. He states that the U.S. Fish and Wildlife Service ("USFWS") has not yet commented on the Biological Assessment submitted by Vulcan's consultants in connection with the quarry and rail corridor, noting only an April 22, 2003 letter from USFWS. That is not correct. Vulcan's consultant has also received the attached October 17, 2003 letter from USFWS, which SGR hereby submits for the environmental record in this proceeding. By this letter, USFWS offers some comments on the most recent Biological Assessment, states its appreciation of Vulcan's cooperation with USFWS in designing "an environmentally sound quarry project" and thanks Vulcan for its "concern for endangered and threatened species and other natural resources." Of course, USFWS will have full opportunity to comment on the scope of the EIS and on the Draft EIS to the extent that it has any concerns.

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We would be pleased to respond to any specific questions that SEA may have with respect to any of these or other matters.

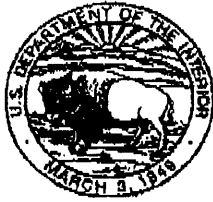
Sincerely,

A handwritten signature in black ink, appearing to read 'D. H. Coburn', with a long horizontal flourish extending to the right.

David H. Coburn
Attorney for Southwest Gulf Railroad

Enclosure

cc: Senator John Cornyn
Congressman Henry Bonilla
Senator Frank Madla
Representative Timeteo Garza
Ms. Rini Ghosh, SEA
Ms. Jaya Zyman-Ponebshek, URS
Dr. Darrell Brownlow



United States Department of the Interior

FISH AND WILDLIFE SERVICE

10711 Burnet Road, Suite 200

Austin, Texas 78758

(512) 490-0057



October 17, 2003

Dr. William J. Rogers

Department of Life, Earth, and Environmental Sciences

West Texas A&M University

Box 60808

Canyon, Texas 79016-0001

Consultation Number 2-15-00-I-0658

Dear Dr. Rogers:

This letter responds to your August 2003 submittal to the U.S. Fish and Wildlife Service (Service) of the "Vulcan Materials Company's Biological Assessment Report for its Medina Project in Medina County, Texas." Vulcan proposes construction of a limestone quarry on an approximately 712 hectares (1760 acres) tract approximately 8 kilometers (5 miles) north of the community of Quihi, Texas. This biological assessment (BA) assesses Phase I, the southernmost approximately 243 hectares (600 acres) of the site, and is an updated version of the Vulcan Materials Company (Vulcan) BA submitted to our office in December 2001. Four additional phases will be assessed and submitted to the Service in the future.

On October 15, 2003, Jana Milliken of our staff toured portions of the future quarry site with you and project geologist Dr. Darrell Brownlow to discuss the project's potential impacts to the endangered golden-cheeked warbler (GCW) (*Dendroica chrysoparia*). It was determined in the previous BA that potential habitat for the GCW did exist within and adjacent to the quarry site. However, those areas with the highest potential to support GCW habitat (approximately 81 hectares (200 acres) of the total Phase I area) are to be set aside as buffer zones and undisturbed wildlife "preserve" areas surrounding quarry operations. It is not clear exactly how much of the total 712 hectares (1760 acres) property will remain undisturbed over the life of the project, but estimates given during our tour suggest as much as half of the tract may be set aside.

Presence/absence surveys for the GCW were initiated in the Spring of 2001. Horizon Environmental Services, Inc. was contracted to do the surveys for 2001, 2002, and 2003 field seasons. From these surveys, we understand that you have determined that "take" of GCWs is

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IN AMERICA 

Dr. Rogers

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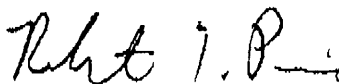
not likely to occur on the quarry site because of lack of suitable habitat. Section 9 of the Endangered Species Act of 1973, as amended (Act) defines take as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Take is further defined to include "significant habitat modification where it actually kills or injures wildlife by significantly interfering with essential behavioral patterns such as breeding, feeding and sheltering" (50 Code of Federal Regulations 17.3).

We appreciate the cooperation of Vulcan with the Service over the years to design an environmentally-sound quarry project. As we discussed during our October 15, 2003, visit, we recommend Vulcan consider limiting clearing of vegetation on the quarry site to outside of the breeding season for the GCW, March 1 - August 15. This would further reduce the chance of take occurring incidental to quarry operations. In addition, we determined that if it is necessary to clear inside the breeding season, the Service would be contacted for further guidance. We appreciate the opportunity to work with Vulcan on a clearing schedule that would avoid impacting the local wildlife community to the greatest extent possible.

In a March 20, 2002, letter, we expressed concern about the phased approach that Vulcan is taking to assess potential habitat for the GCW. Generally, the Service requests that projects be assessed for habitat in their entirety prior to initiation of project activities. However, given the fact that operations will not begin in areas outside of Phase I for several years, surveys in those areas would likely need to be reinitiated to show absence. Therefore, we look forward to working with Vulcan in the future to avoid impacts to the GCW on future phases prior to quarrying activities.

Thank you for your concern for endangered and threatened species and other natural resources. We appreciate the opportunity to comment on the proposed project. If we can be of further assistance or if you have any questions about these comments, please contact Jana Milliken at 512-490-0057, extension 243.

Sincerely,



Robert T. Pine
Supervisor

cc: Dr. Darrell Brownlow, Floresville, Texas
Mr. Tom Ransdell, Vulcan Materials Company, San Antonio, Texas